

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF HARRY § No. 513, 2010
ANDERSON FOR A WRIT OF §
MANDAMUS §

Submitted: August 20, 2010
Decided: September 21, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 21st day of September 2010, it appears to the Court that:

(1) The petitioner, Harry Anderson, seeks to invoke this Court's original jurisdiction to issue an extraordinary writ of mandamus¹ (1) to compel the Superior Court to credit him with Level V time he spent in Pennsylvania awaiting extradition to Delaware and (2) to dismiss his criminal case in Criminal Identification Number 0511001605 on the ground that his constitutional and statutory rights were violated. In its answer, the State of Delaware requests that Anderson's petition be dismissed. We find that Anderson's petition manifestly fails to invoke the original jurisdiction of this Court. Accordingly, the petition must be dismissed.

(2) In March 2006, Anderson pleaded guilty to Assault in the Second Degree. He was sentenced to 8 years of Level V incarceration, to be

¹ Del. Const. art. IV, §11(6); Supr. Ct. R. 43.

suspended after 1 year for 2 years of Level III probation, in turn to be suspended after 1 year for 1 year of Level II supervision. Anderson subsequently was found to have committed a violation of probation (“VOP”) on two occasions. In December 2008, Anderson’s probation officer filed another VOP report and the Superior Court issued a *capias* for Anderson’s arrest. The Superior Court docket reflects that a VOP hearing has now been scheduled.

(3) A writ of mandamus is an extraordinary remedy issued by this Court to compel a trial court to perform a duty.² As a condition precedent to the issuance of the writ, Anderson must demonstrate that a) he has a clear right to the performance of the duty; b) no other adequate remedy is available; and c) the trial court has arbitrarily failed or refused to perform its duty.³ Mandamus is not available to compel a trial court to decide a matter in a particular way or to dictate control of its docket.⁴

(4) There is no basis for the issuance of a writ of mandamus in this case. Anderson has failed to demonstrate that he has a clear right to the performance of a duty on the part of the Superior Court that it has arbitrarily failed or refused to perform. Moreover, the Superior Court docket reflects

² *In re Bordley*, 545 A.2d 619, 620 (Del. 1988).

³ *Id.*

⁴ *Id.*

that Anderson filed a motion to dismiss his criminal case on July 27, 2010, thereby demonstrating that he has another remedy available to him.

NOW, THEREFORE, IT IS ORDERED that the petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice